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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,006	01/17/2002	Valerie L. Crumley	IN-5421	9161

26922 7590 04/09/2004

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EXAMINER
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GORR, RACHEL F

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/052,006	Applicant(s) CRUMLEY ET AL.	
	Examiner Rachel F. Gorr	Art Unit 1711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-28 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The limitations of claim 20 are already in claim one.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNeil in view of Swarup (322).

4. McNeil discloses an aqueous coating composition comprising Bayhydrol 140 AQ (see example 4), the same polyurethane dispersion used in the applicant's examples; a dispersed anionic (col. 6, line 42) acrylic polymer having a glass transition temperature at least 20 deg. C higher than the polyurethane (col. 2, line 58) and an equivalent weight of 1000 or less (col. 6, line 37); a crosslinking component (top col. 6). He salts the dispersion with preferably dimethylethanolamine (col. 7, line 49), and he shows that the acrylic resin is made with a chain transfer agent (col. 8, line 9). Example 4 shows more than 50 wt. % of the sum of polyurethane, acrylic resin and crosslinker is pigment. He teaches that the composition is substantially solvent free (col. 9, line 24), and he shows applying clear topcoats over substrates coated with the above coating (bottom col. 10). In col. 8, lines 40-65, he shows that the polyurethane comprises at least 40 wt. % of the polyurethane plus the acrylic, and that the crosslinker comprises 2-30 wt. % of the polyurethane, acrylic and crosslinker. These amounts would overlap

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with the claim one limitation of 10-50 wt. % of polyurethane of the sum of urethane, acrylic and crosslinker. McNeil differs from the claims by not specifying flake pigments and the use of the coating as a base coating versus using it as a primer.

5. Swarup discloses base coatings comprising flake pigment (col. 11, line 41), polyurethanes, acrylic resins and an aminoplast crosslinker (see example VI).

6. It would have been obvious to use the coating of McNeil as a base coat with flake pigment because Swarup shows this for similar compositions. It would have been obvious to apply this base coat over the primer of McNeil because McNeil teaches that layers of coatings should be compatible (col. 2, line 27).

7. Applicant's arguments filed 3-2004 have been fully considered but they are not persuasive. The applicants argue that McNeil doesn't disclose flake pigment. The above rejection addresses this.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel F. Gorr whose telephone number is 571-272-1072. The examiner can normally be reached on Mon., Tues., Thurs., Fri., from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R.G.  
March 5, 2004



**RACHEL GORR  
PRIMARY EXAMINER**